

1 Karma M. Julianelli (SBN 184175)  
karma.giulianelli@bartlitbeck.com  
**BARTLIT BECK LLP**  
2 1801 Wewetta St., Suite 1200  
Denver, Colorado 80202  
3 Telephone: (303) 592-3100  
4

Hae Sung Nam (*pro hac vice*)  
5 hnam@kaplanfox.com  
**KAPLAN FOX & KILSHEIMER LLP**  
6 850 Third Avenue  
New York, NY 10022  
7 Tel.: (212) 687-1980  
8

*Co-Lead Counsel for the Proposed Class in In re Google Play Consumer Antitrust Litigation*

10 Steve W. Berman (*pro hac vice*)  
steve@hbsslaw.com  
**HAGENS BERMAN SOBOL SHAPIRO LLP**  
11 1301 Second Ave., Suite 2000  
Seattle, WA 98101  
12 Telephone: (206) 623-7292  
13

14 Eamon P. Kelly (*pro hac vice*)  
ekelly@sperling-law.com  
**SPERLING & SLATER P.C.**  
15 55 W. Monroe, Suite 3200  
Chicago, IL 60603  
16 Telephone: 312-641-3200  
17

*Co-Lead Counsel for the Proposed Class in In re Google Play Developer Antitrust Litigation and Attorneys for Pure Sweat Basketball, Inc.*

20 Bonny E. Sweeney (SBN 176174)  
bsweeney@hausfeld.com  
**HAUSFELD LLP**  
21 600 Montgomery Street, Suite 3200  
San Francisco, CA 94104  
22 Telephone: (415) 633-1908  
23

*Co-Lead Counsel for the Proposed Class in In re Google Play Developer Antitrust Litigation and Attorneys for Peekya App Services, Inc.*

26 [Additional counsel appear on signature page]

2 Paul J. Riehle (SBN 115199)  
paul.riehle@faegredrinker.com  
**FAEGRE DRINKER BIDDLE & REATH LLP**  
3 Four Embarcadero Center, 27th Floor  
San Francisco, CA 94111  
4 Telephone: (415) 591-7500

Christine A. Varney (*pro hac vice*)  
cvarney@cravath.com  
**CRAVATH, SWAINE & MOORE LLP**  
825 Eighth Avenue  
New York, New York 10019  
Telephone: (212) 474-1000

*Counsel for Plaintiff Epic Games, Inc. in Epic Games, Inc. v. Google LLC et al.*

Brendan P. Glackin (SBN 199643)  
bglackin@agutah.gov  
**OFFICE OF THE UTAH ATTORNEY GENERAL**  
160 E 300 S, 5th Floor  
PO Box 140872  
Salt Lake City, UT 84114-0872  
Telephone: 801-366-0260

*Counsel for Utah*

Glenn D. Pomerantz (SBN 112503)  
glenn.pomerantz@mto.com  
**MUNGER, TOLLES & OLSON LLP**  
350 South Grand Avenue, Fiftieth Floor  
Los Angeles, California 90071  
Telephone: (213) 683-9100

Brian C. Rocca (SBN 221576)  
brian.rocca@morganlewis.com  
**MORGAN, LEWIS & BOCKIUS LLP**  
One Market, Spear Street Tower  
San Francisco, CA 94105-1596  
Telephone: (415) 442-1000

Daniel M. Petrocelli, Bar No. 97802  
dpetrocelli@omm.com  
**O'MELVENY & MYERS LLP**  
1999 Avenue of the Stars, 7th Fl.  
Los Angeles, CA 90067-6035  
Telephone: (310) 553-6700

*Counsel for Defendants Google LLC et al.*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

# **IN RE GOOGLE PLAY STORE ANTITRUST LITIGATION**

Case No. 3:21-md-02981-JD

## THIS DOCUMENT RELATES TO:

## **JOINT CASE MANAGEMENT STATEMENT**

*Epic Games Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD

Date: November 18, 2021

Time: 11:00 a.m.

Courtroom: 11, 19th Floor (by remote access)

Judge: Hon. James Donato

*In re Google Play Consumer Antitrust Litigation*, Case No. 3:20-cv-05761-JD

*In re Google Play Developer Antitrust Litigation*, Case No. 3:20-cv-05792-JD

*State of Utah et al. v. Google LLC et al.*, Case No. 3:21-cv-05227-JD

1 Pursuant to this Court’s Order dated October 22, 2021 (*In re Google Play Store Antitrust*  
2 *Litigation*, No. 3:21-md-02981-JD (N.D. Cal. 2021) (“MDL”) Dkt. No. 122), setting a status  
3 conference for November 18, 2021, the parties in the above-captioned MDL action (“the  
4 Parties”), by and through their undersigned counsel, submit this Joint Case Management  
5 Statement.

6 **I. CASE STATUS SUMMARY**

7 **A. Case Schedule**

8 On October 22, 2021, the Court issued an MDL Scheduling Order, setting an October 17,  
9 2022, trial date and pretrial deadlines for this MDL action.

10 **B. Pleadings**

11 On November 1, 2021, Epic filed an Answer to Google’s Counterclaims. MDL Dkt. No.  
12 136. On November 1, 2021, the State Attorneys General (“State AG”) Plaintiffs filed an  
13 Amended Complaint. *Utah v. Google LLC*, No. 3:21-cv-05227, Dkt. No. 188. Google’s  
14 responsive pleadings to the State AG’s Amended Complaint are due on November 15, 2021.

15 **C. Administrative Motions to Seal**

16 On October 11, 2021, in connection with Defendants’ Answers, Defenses and  
17 Counterclaims to Epic Games, Inc.’s First Amended Complaint for Injunctive Relief, MDL Dkt.  
18 No. 111, Google filed an Administrative Motion to Seal in connection with certain materials  
19 designated confidential by Epic. MDL Dkt. No 112. Epic has not sought to maintain under seal  
20 any portion of Google’s Answer and Counterclaims. Accordingly, the Court may deny  
21 Google’s Administrative Motion, MDL Dkt. No 112 as moot.

22 On November 1, 2021, in connection with its Answer and Defenses to Google’s  
23 Counterclaims, MDL Dkt. No. 136, Epic filed an Administrative Motion to Consider Whether  
24 Another Party’s Material Should Be Sealed in connection with certain materials designated  
25 confidential by Google (MDL Dkt. No. 137). Google has not sought to maintain under seal any  
26 portion of Epic’s Answer and Defenses to Google’s Counterclaims. Accordingly, the Court may  
27 deny Epic’s Administrative Motion, MDL Dkt. No. 137, as moot.

1                   **II. STATUS OF DISCOVERY**

2                   **A. Deposition Protocol**

3                  The Parties have met and conferred regarding a deposition protocol to govern the  
 4 depositions in this MDL action. On October 28, 2021, the Parties submitted a Joint Discovery  
 5 Letter Brief to the Court regarding a dispute concerning Rule 30(b)(6) depositions. MDL Dkt.  
 6 No. 134. On November 5, 2021, the Court issued an order regarding the Parties' dispute. MDL  
 7 Dkt. No. 141. The Parties will meet and confer and submit a deposition protocol to the Court  
 8 that incorporates the Court's November 5, 2021 Order.

9                   **B. Fact Depositions**

10                 The Parties are set to begin fact depositions in December. On November 5, 2021,  
 11 Plaintiffs requested that Google provide dates for twenty witnesses that Class Plaintiffs believe  
 12 need to be deposed prior to class certification, including three of four witnesses for which  
 13 Plaintiffs had requested deposition dates on August 30, 2021, and one witness for which  
 14 Plaintiffs had requested a deposition date on October 24, 2021 as a substitute for one of the  
 15 original four who was unavailable prior to class certification. Three of those witnesses are now  
 16 scheduled for December 2, 9, and 20. Because the opening briefs on class certification are due  
 17 January 28, 2022, Plaintiffs have requested these twenty depositions take place before January  
 18 15, 2022.

19                 On October 15, 2021, Google requested depositions of consumer class plaintiffs and three  
 20 Epic witnesses. Epic offered dates for two of its witnesses on December 16 and January 7, and  
 21 Consumer Plaintiffs are gathering dates for their class representatives. The Parties continue to  
 22 meet and confer on the scheduling of depositions.

23                   **C. Document Discovery Update**

24                 The Parties have made significant progress to date and continue to engage in discovery  
 25 on a range of topics. There are meet and confers underway to address outstanding discovery  
 26 issues, and the Parties are hopeful that the remaining issues will be resolved through negotiation.

1       On October 21, 2021, Google announced that it was reducing its service fee on  
2 subscriptions purchased through Google Play from 30 percent to 15 percent. On October 25,  
3 2021, Plaintiffs requested that Google produce documents and communications related to  
4 Google's change to the fee structure. The Parties are meeting and conferring regarding Plaintiffs'  
5 request. One deponent Plaintiffs have requested before class certification, a Vice President of  
6 Project Management responsible for Google Play, made Google's announcement.

7       On November 1, 2021, Google amended its initial disclosures, including by adding three  
8 new individuals who had not previously been identified in this litigation as individuals  
9 reasonably likely to have discoverable information that Google may use to support its claims  
10 and/or defenses. On November 5, 2021, Plaintiffs requested that Google produce certain  
11 custodial documents from the files of these individuals. The Parties are meeting and conferring  
12 regarding Plaintiffs' request.

13       The State AG Plaintiffs have indicated that they plan to serve their initial disclosures on  
14 or before November 19, 2021.

15                  **D.      Source Code**

16       The Parties continue to negotiate the scope of source code that Google will make  
17 available for Plaintiffs' experts to review and an associated protective order. The Parties are  
18 hopeful that the source code issue will be resolved quickly so that, to the extent Class Plaintiffs  
19 believe such information is necessary for class certification, Plaintiffs' experts will have  
20 sufficient time to review the necessary information.

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2 Dated: November 11, 2021  
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CRAVATH, SWAINE & MOORE LLP  
Christine Varney (*pro hac vice*)  
Katherine B. Forrest (*pro hac vice*)  
Darin P. McAtee (*pro hac vice*)  
Gary A. Bornstein (*pro hac vice*)  
Timothy G. Cameron (*pro hac vice*)  
Yonatan Even (*pro hac vice*)  
Lauren A. Moskowitz (*pro hac vice*)  
Omid H. Nasab (*pro hac vice*)  
Justin C. Clarke (*pro hac vice*)  
M. Brent Byars (*pro hac vice*)

9 FAEGRE DRINKER BIDDLE & REATH LLP  
10 Paul J. Riehle (SBN 115199)

11 Respectfully submitted,  
12

By: /s/ Yonatan Even  
Yonatan Even

13 *Counsel for Plaintiff Epic Games, Inc.*  
14  
15

Dated: November 11, 2021  
16  
17

BARTLIT BECK LLP  
Karma M. Giulianelli

KAPLAN FOX & KILSHEIMER LLP  
Hae Sung Nam

19 Respectfully submitted,  
20

21 By: /s/ Karma M. Giulianelli  
Karma M. Giulianelli

22 *Co-Lead Counsel for the Proposed Class in*  
23 *In re Google Play Consumer Antitrust*  
24 *Litigation*

1 Dated: November 11, 2021

PRITZKER LEVINE LLP  
Elizabeth C. Pritzker

Respectfully submitted,

By: /s/ Elizabeth C. Pritzker  
Elizabeth C. Pritzker

*Liaison Counsel for the Proposed Class in  
In re Google Play Consumer Antitrust  
Litigation*

8 Dated: November 11, 2021

HAGENS BERMAN SOBOL SHAPIRO LLP  
Steve W. Berman  
Robert F. Lopez  
Benjamin J. Siegel

SPELING & SLATER PC  
Joseph M. Vanek  
Eamon P. Kelly  
Alberto Rodriguez

Respectfully submitted,

By: /s/ Steve W. Berman  
Steve W. Berman

*Co-Lead Interim Class Counsel for the  
Developer Class and Attorneys for Plaintiff  
Pure Sweat Basketball*

1 Dated: November 11, 2021

HAUSFELD LLP  
Bonny E. Sweeney  
Melinda R. Coolidge  
Katie R. Beran  
Scott A. Martin  
Irving Scher

5 Respectfully submitted,

6 By: /s/ Bonny E. Sweeney  
7 Bonny E. Sweeney

8 *Co-Lead Interim Class Counsel for the*  
9 *Developer Class and Attorneys for Plaintiff*  
10 *Peekya App Services, Inc.*

11 Dated: November 11, 2021

12 OFFICE OF THE UTAH ATTORNEY  
GENERAL  
13 Brendan P. Glackin

14 Respectfully submitted,

15 By: /s/ Brendan P. Glackin  
16 Brendan P. Glackin

17 *Counsel for Utah*

18 Dated: November 11, 2021

19 MORGAN, LEWIS & BOCKIUS LLP  
Brian C. Rocca  
20 Sujal J. Shah  
21 Michelle Park Chiu  
Minna L. Naranjo  
Rishi P. Satia

23 Respectfully submitted,

24 By: /s/ Brian C. Rocca  
25 Brian C. Rocca

26 *Counsel for Defendants Google LLC et al.*

1 Dated: November 11, 2021

O'MELVENY & MYERS LLP  
Daniel M. Petrocelli  
Ian Simmons  
Benjamin G. Bradshaw  
Stephen J. McIntyre

5 Respectfully submitted,

6 By: /s/ Daniel M. Petrocelli  
7 Daniel M. Petrocelli

8 *Counsel for Defendants Google LLC et al.*

9  
10 Dated: November 11, 2021

MUNGER, TOLLES & OLSON LLP  
Glenn D. Pomerantz  
Kyle W. Mach  
Kuruvilla Olasa  
Justin P. Raphael  
Emily C. Curran-Huberty  
Jonathan I. Kravis  
Marianna Y. Mao

11  
12  
13  
14  
15 Respectfully submitted,

16  
17  
18  
19  
20  
21  
22 By: /s/ Glenn D. Pomerantz  
23 Glenn D. Pomerantz

24 *Counsel for Defendants Google LLC et al.*

## **E-FILING ATTESTATION**

I, Marianna Y. Mao, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

/s/ *Marianna Y. Mao*